

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,
Plaintiff,

v.

Jose Rafael-Rivera-Diaz,
Defendant

Criminal No. 16-440-32 (PAD)

SENTENCING MEMORANDUM OF THE UNITED STATES

TO THE HONORABLE COURT:

COMES NOW, the United States of America (“Government” or “United States”), by and through the undersigned attorneys, and very respectfully states and prays as follows:

I. Introduction

The defendant, Jose Rafael-Rivera-Diaz, along with 39 others, was the subject of a Six Count Indictment rendered by a District of Puerto Rico Grand Jury on July 12, 2016

On August 28th, 2017, defendant, Jose Rafael-Rivera-Diaz (“Defendant”), entered a plea of guilty as to one count of the Indictment; Conspiracy to Possess with intent to distribute Controlled Substances. Title 21, U.S.C. §§ 841(a)(1), 846 and 860.

The United States respectfully submits that **a sentence of the mandatory minimum term of 60 months of imprisonment**, followed by a three (3) year term of supervised release, is sufficient but not greater than necessary to address the relevant sentencing factors set forth in Title 18 U.S.C. §3553(a). This sentence will: (1) address the seriousness associated with the crime; (2) provide deterrence to others in committing similar crimes and; (3) promote respect for the law.

II. Factual Summary

Beginning no later than the year 2009 and continuing up to and until the return of the

indictment, in the Municipality of Carolina and other areas nearby, in the District of Puerto Rico, Jose Rafael-Rivera-Diaz and other persons, did knowingly and intentionally, combine, conspire, and agree with each other and with diverse other persons to possess with intent to distribute controlled substances, to wit: of two-hundred and eighty (280) grams or more of cocaine base (crack); one (1) kilogram or more of heroin; (5) kilograms or more of a mixture or substance containing cocaine; one hundred (100) kilograms or more of marijuana.

The object of the conspiracy was to distribute controlled substances at the Sabana Abajo Public Housing Project, in the Municipality of Carolina, Puerto Rico; all for significant financial gain and profit.

The defendant acknowledged that during the span of the conspiracy he possessed with intent to distribute at least 2 kilograms but less than 3.5 kilograms of cocaine.

The defendant acted as a seller for the drug trafficking organization. As a seller the Defendant would distribute street quantity amounts of heroin, cocaine base (crack), cocaine and marihuana. As a seller he was accountable for the drug proceed and the narcotics at the drug distribution points.

III. Defendant's Criminal History and Post Indictment Conduct

Defendant has a criminal history score of 0. Defendant has no prior convictions.

IV. Conclusion

Based on the foregoing, the United States respectfully submits that a sentence of 60 months would promote respect for the law, afford adequate deterrence to criminal conduct, and protect the public from further criminal conduct of the defendant.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 27th day of June, 2018.

ROSA EMILIA RODRÍGUEZ-VÉLEZ
United States Attorney

S/NADIA PINEDA PEREZ
Nadia Pineda-Pérez –G02211
Special Assistant United States Attorney
U.S. Attorney's Office
Torre Chardón, Suite 1201
350 Carlos Chardón Ave.
Hato Rey, PR 00918
Tel.: (787) 766-5656
Email: nadia.y.pineda@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to defense counsel.

S/NADIA PINEDA PEREZ
NadiaPineda-Pérez